

REMARKS

Claims 1, 6, 9-11, 13-15, 19 and 22-31 were examined by the Office, and in the final Office Action of November 24, 2009 all claims are rejected. With this response no claims are amended, added or cancelled. Applicant respectfully requests reconsideration and withdrawal of the rejections in view of the following discussion.

Claim Rejections Under § 103

In section 3, on page 6 of the Office Action, claims 1, 5-8, 10-11, 13-15, 19-20 and 22-31 are rejected under 35 U.S.C. § 103(a) as unpatentable over Wylie et al. (U.S. Patent No. 5,974,329) in view of MacDonald (U.S. Patent No. 5,732,354). Applicant respectfully submits that claim 1 is not disclosed or suggested by the cited references, alone or in combination, because the cited references fail to disclose or suggest all of the limitations recited in claim 1.

In response to applicant's arguments on pages 2-5 of the Office Action, the Office has not shown any reasoning as to why and how a skilled person could combine Wylie and MacDonald to come up with the limitations of the claims. The Office must show why the skilled person would combine the selected features from both and arrive at the current claims. However, no valid reason has been given in the response.

With respect to section 1a) of the Office Action, the Office appears to disagree with the applicant's assertion that Wylie fails to disclose determining a characteristic parameter describing a line of slight conditions and that MacDonald is relied upon for this teaching, but then the Office states that it is the combination of Wylie and MacDonald teaches propagation loss model. In addition, the Office refers to particular selected features of Wylie and selected features from MacDonald and describes these. However, there is no reason given as to why these particular features would be selected by the skilled person, why it would be obvious for a skilled person to combine them, and why the essential integers of both Wylie and MacDonald would be omitted. These reasons have to be given to show obviousness.

With respect to section 1b) of the Office Action, the Office disagrees with the applicant's argument that MacDonald teaches a different system of determining location from the current claims. The Office does not support this by finding this feature in McDonald, but continues again by relying on combining McDonald with Wylie to find this feature. However, MacDonald uses signal strength measurements, while the claims recite travel times/and or difference in travel times. The Office has also failed to show why the skilled

person would inevitably select particular features from Wylie and particular features from MacDonald and combine these to come up with the limitations recited in the claims.

With respect to section 1c) of the Office Action, the Office states that it disagrees with the applicant's assertions that signal strengths are not time measurements. The Office states that this is not a discussion for the issue of the claim. However, the current claims clearly state "wherein the at least one feature comprises at least travel time or travel time difference of the signal between the mobile station and at least two base stations". This limitation is therefore clearly relevant to the obviousness inquiry. The Office also states that signal strengths are RSSI determinations of equivalent accuracy and obtained per unit time. However, it is totally irrelevant whether RSSIs are measured per unit time; many parameters are measured per unit time, i.e. at intervals, since the actual claimed feature is "time travel or travel time difference of the signal..." These would be construed by the skilled person e.g. as the time taken for a signal to travel from A to B, or the time difference between the time it takes from signals to travel from A to B and A and C. The fact the signal strengths are measured every x seconds has absolutely no relevance at all to this feature. Furthermore the Office refers to the claimed term as "time measurements." However this term is not used in the current claims, but instead wording is "time travel or travel time difference of the signal."

With respect to section 1d) of the Office Action, the Office has provided no reasoning why the skilled person would choose to take selected features from MacDonald and selected features from Wylie and combine them; it to be noted that such a specific selection also includes dropping several features from both Wylie and MacDonald regarded as essential for them. Wylie and MacDonald work in entirely different ways and therefore this would clearly steer the skilled person away from combining features from these two documents and this is a clear indicator of inventive step.

In addition, as asserted by the Office, Wylie includes the essential feature in column 2, lines 27 to 28 of the step of identifying whether bases station is line-of- sight or non line-of- sight with a mobile station. This is also a feature of claim 1 of Wylie and thus this is considered an essential feature. The current claims of the present application do not include this feature. Therefore, there is no reason given as to why the skilled person would delete this feature. Again, as mentioned by the Examiner, column 3, lines 5 to 7 refers to the feature positional angle being measured. There is no reference also in the current claims to positional angle and this is a further argument as to why the current claims are inventive.

With respect to column 4, lines 55 to 62 of Wylie, this states that estimation can be determined from time difference of arrival time measurements as the difference of propagation delays. Therefore, relative propagation delays can be used. However, it is clear that the propagation delays need to be determined by some other method, e.g. angle arrival information, see claim 2 (as mentioned before). Furthermore, the Wylie method additionally includes the necessary feature of determining deviations (e.g. see claim 1 and all other independent claims of Wylie). The Office agrees that Wylie does not disclose or hint at determining a characteristic parameter describing line of sight conditions but has failed to state why the features which are regarded as necessary for Wylie, i.e. the step of determining whether a base station is line of sight of non line of sight, as well as the feature of calculating two sets of standard deviations, which are both considered essential features of Wylie, would be dropped by the skilled person.

Although MacDonald teaches a similar parameter to that of the current claims (e.g. terrain) there was no reason given at all by the Examiner to state why the skilled person would i) select this particular feature only from MacDonald ii) further not select other essential features of MacDonald, iii) select particular features only of Wylie, iv) omit essential features of Wylie and v) combine them, especially when vi) they use very different methods. MacDonald works on an entirely different method than Wylie. This is itself accepted evidence that the skilled person would not consider combining features from the two documents. Again for example, it is a clear essential feature of the MacDonald teaching is to measure signal strength data; please see all claims of MacDonald. Thus the entire MacDonald teaching is founded on the feature of measuring signal strengths. There is no reason given by the Examiner as why a skilled person would think of obviously deleting this feature. Furthermore, from a point of view of looking at the MacDonald document, there is no reason why the skilled person would consider using or even needing travel times or travel time differences.

In summary, no reasoning at all has been given by the Examiner as to why the skilled person would consider selecting certain features from Wylie, deleting certain features known to be essential from Wylie, selecting certain features from MacDonald and fourthly, deleting certain features from MacDonald's which are inherently essential to MacDonald. In order to show inventive step, the Examiner needs to argue why all these four steps would be obvious. In addition, the fact that MacDonald and Wylie use entirely different methods albeit to produce the same result, is clear indication that it would not be obvious to combine the

documents let alone certain selected features. It is to be noted in this that the skilled person does not possess the benefit of hindsight.

Independent claims 15 and 23-24 contain limitations similar to those recited in claim 1, and therefore are not disclosed or suggested by the cited references for at least the reasons discussed above with respect to claim 1.

The dependent claims rejected above, all ultimately depend from the above mentioned independent claims, and therefore are not disclosed or suggested by the cited references at least in view of their dependencies.

In section 4, on page 11 of the Office Action, claim 9 is rejected under 35 U.S.C. § 103(a) as unpatentable over Wylie in view of MacDonald and Hilsenrath et al. (U.S. Patent No. 6,026,304). Claim 9 ultimately depends from independent claim 1, and therefore it not disclosed or suggested at least in view of its dependency.

Conclusion

For at least the foregoing reasons, applicant respectfully submits that the present application is in condition for allowance, and such action is earnestly solicited. The undersigned hereby authorizes the Commissioner to charge Deposit Account No. 23-0442 for any fee deficiency required to submit this response.

Respectfully submitted,

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